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August 6, 2022

The Honorable Lorna G. Schofield
United States District Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Filed via ECF

Re: Nypl, et al. v. JPMorgan Chase & Co, et al., Case No. 1:15-cv-9300

Dear Judge Schofield,

Pursuant to the Court's Local Rules directing counsel to file letter motions concerning discovery and deposition disputes, the Plaintiffs respectfully request leave of Court to file this letter motion to take the deposition of Dr. Strombom on or before August 17, 2022. Plaintiffs seek limited testimony related to Dr. Strombom's critique, if any, of the rebuttal report submitted by Plaintiffs' expert Carl Saba.

In this Court's Order of March 21, 2022 (ECF 777) with regard to expert testimony, the Plaintiffs were required to list their expert witnesses on or before April 18, 2022. The Plaintiffs did so.

The Defendants were to designate their merit experts on or before June 17, 2022. Defendants did not do so. However, the Plaintiffs assumed that the Defendants may have overlooked the designation of Dr. Strombom.

On or before July 18, 2022, the Plaintiffs were required to designate rebuttal witnesses. The Plaintiffs designated Carl Saba and submitted his rebuttal report which for the first time allowed him to critique the prior expert testimony of Dr. Strombom.

Both parties were then allowed to take depositions up to and including August 17, 2022. In accordance with that Order, Plaintiffs proposed the deposition of Dr. Strombom to ascertain his opinions, if any, with respect to the rebuttal report filed by Carl Saba.

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On July 25, 2022, Plaintiffs served a Notice to Take the Deposition of Dr. Strombom on August 15, 2022.

On July 28, 2022, Defendants served a written objection to Plaintiffs July 25, 2022, Notice to Take the Deposition of Dr. Strombom.

On August 1, 2022, Plaintiffs responded to the Defendants and stated that they intended to take Dr. Strombom's deposition on August 15, 2022 based upon the Court's Order of March 21, 2022 (ECF 777).

On August 4, 2022, all counsel participated in a meet and confer regarding the deposition of Dr. Strombom. At that time, all of the Defendants' counsel stated that the Court at the hearing of June 29, 2022 said that there would be no further depositions. Plaintiffs did not and do not recall any such statement by the Court, but Plaintiffs accept the representations made by all of the counsel for the Defendants.

Thus, a dispute exists.

It is the position of the Plaintiffs that they are either allowed to take the deposition of Dr. Strombom limited to his critique, if any, of Carl Saba's rebuttal report, or the Court should prohibit Dr. Strombom from giving any testimony with regard to any critique he may have about Carl Saba's timely rebuttal report.

The Plaintiffs should not be put in a position of surprise at the trial or in any motion for summary judgment.

The parties reserve any and all rights they may otherwise have.

Respectfully submitted,

ALIOTO LAW FIRM

LAW OFFICES OF LINGEL H. WINTERS

By: /s/ Joseph M. Alioto
Joseph M. Alioto

By: /s/ Lingel H. Winters
Lingel H. Winters

Attorneys for Plaintiffs

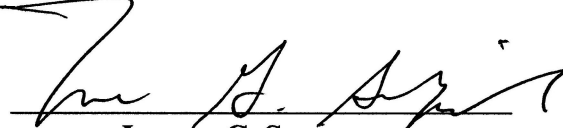
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cc: All Counsel of Record via ECF

Defendants shall file a responsive letter, not to exceed 2 pages, by **August 10, 2022**.

So Ordered.

Dated: August 8, 2022
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE